

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1433-AIR-E TCEQ ID: RN104491055 CASE NO.: 34560**  
**RESPONDENT NAME: Builders Marble Company**

Page 1 of 3

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Builders Marble Company, 1995 US Highway 380 East, Farmersville, Collin County</p> <p><b>TYPE OF OPERATION:</b> Synthetic marble products manufacturing plant</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 24, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p style="margin-left: 20px;"><b>Respondent:</b> Mr. Kirk Kauffman, Director, Builders Marble Company, 2411 East Audie Murphie Parkway, Farmersville, Texas 75442</p> <p style="margin-left: 20px;">Mr. T. Craig Berry, President, Builders Marble Company, 2411 East Audie Murphie Parkway, Farmersville, Texas 75442</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 10, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to timely submit the required annual compliance certification for the period of March 10, 2006 through March 9, 2007 [30 TEX. ADMIN. CODE § 122.146(1) and (2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to submit an initial notification of applicability to 40 CODE OF FEDERAL REGULATIONS ("CFR") 63, Subpart WWW by January 4, 2005 [30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to submit semiannual reports for the periods of December 20, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005 [30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failed to properly maintain a recordkeeping system. Specifically, the Respondent was not maintaining a monthly report that reflects emissions in pounds per hour on a daily average basis and tons emitted for the previous 12 consecutive months [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 74386, Special</p>	<p><b>Total Assessed:</b> \$12,065</p> <p><b>Total Deferred:</b> \$2,413  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$462 (remaining \$9,190 due in 19 monthly payments of \$465 each and one final payment of \$355)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Began maintaining a record of monthly emissions in pounds per hour on a daily average basis and tons emitted for the previous 12 consecutive months on June 1, 2007;</p> <p>b. Submitted the required annual compliance certification for the period of March 10, 2006 through March 9, 2007 on June 13, 2007;</p> <p>c. Submitted an initial notification of applicability to 40 CFR 63, Subpart WWW on June 21, 2007;</p> <p>d. Submitted semiannual reports for the periods of December 20, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005 on July 24, 2007; and</p> <p>e. Physically identified and marked on a conspicuous location with the facility identification numbers as submitted to the Industrial Emissions Assessment Section of the TCEQ and the emission point numbers as listed in the MAERT on August 15, 2007.</p>

<p>Condition No. 10(c), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>5) Failed to physically identify and mark all equipment that has the potential to emit air contaminants on a conspicuous location with the facility identification numbers as submitted to the Industrial Emissions Assessment Section of the TCEQ and the emission point numbers as listed in the maximum allowable emission rates table ("MAERT") [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 74386, Special Condition No. 4, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): CPA001A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	4-Sep-2007	Screening	5-Sep-2007	EPA Due	26-May-2008
	PCW	18-Sep-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Builders Marble Company
Reg. Ent. Ref. No.	RN104491055
Facility/Site Region	4-Fort Worth
Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34560	No. of Violations	5	
Docket No.	2007-1433-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Jorge Ibarra, P.E.	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$12,700

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **Subtotals 2, 3, & 7** \$2,540

Notes: The Respondent was issued one 1660 Agreed Order.

**Culpability** **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **Subtotal 5** \$3,175

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent achieved full compliance on August 15, 2007.

**0% Enhancement\*** **Subtotal 6** \$0

Total EB Amounts \$105  
Approx. Cost of Compliance \$1,600  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$12,065

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount** \$12,065

### STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** \$12,065

### DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

**Adjustment** -\$2,413

### PAYABLE PENALTY

**\$9,652**

Screening Date 5-Sep-2007

Docket No. 2007-1433-AIR-E

PCW

Respondent Builders Marble Company

Policy Revision 2 (September 2002)

Case ID No. 34560

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104491055.

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent was issued one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

<b>Screening Date</b> 5-Sep-2007		<b>Docket No.</b> 2007-1433-AIR-E		<b>PCW</b>	
<b>Respondent</b> Builders Marble Company		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 34560		<small>PCW Revision June 26, 2007</small>			
<b>Reg. Ent. Reference No.</b> RN104491055					
<b>Media [Statute]</b> Air					
<b>Enf. Coordinator</b> Jorge Ibarra, P.E.					
<b>Violation Number</b>		<input type="text" value="1"/>			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 122.146(1) and (2) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>		Failed to timely submit the required annual compliance certification for the period of March 10, 2006 through March 9, 2007.			
<b>Base Penalty</b>					<input type="text" value="\$10,000"/>

**>> Environmental, Property and Human Health Matrix**

OR		<b>Harm</b>				
		<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
		Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="25%"/>

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="65"/>	Number of violation days
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<small>mark only one with an x</small>	<div style="border: 1px solid black; padding: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div>	
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One single event is recommended.

**Violation Base Penalty**

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$2,375"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,375"/>	

**Economic Benefit Worksheet****Respondent** Builders Marble Company**Case ID No.** 34560**Reg. Ent. Reference No.** RN104491055**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	9-Apr-2007	13-Jun-2007	0.2	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the required annual compliance certification. Date Required is the date the annual compliance certification was due; Final Date is the compliance date.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$2



Screening Date 5-Sep-2007

Docket No. 2007-1433-AIR-E

PCW

Respondent Builders Marble Company

Policy Revision 2 (September 2002)

Case ID No. 34560

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104491055

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to submit semiannual reports for the periods of December 20, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

904 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$7,500

Three single events are recommended, one for each report and initial notification.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$74

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

**Economic Benefit Worksheet****Respondent** Builders Marble Company**Case ID No.** 34560**Reg. Ent. Reference No.** RN104491055**Media** Air**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$600	31-Jan-2005	24-Jul-2007	2.5	\$74	n/a	\$74

**Notes for DELAYED costs**

Estimated cost to submit the required certifications/reports. Date Required is the date the first certifications/reports was due, Final Date is the compliance date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$600

**TOTAL**

\$74

Screening Date 5-Sep-2007

Docket No. 2007-1433-AIR-E

PCW

Respondent Builders Marble Company

Policy Revision 2 (September 2002)

Case ID No. 34560

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104491055

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 74386, Special Condition No. 10(c), and  
Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly maintain a recordkeeping system. Specifically, the Respondant was not maintaining a monthly report that reflects emissions in pounds per hour on a daily average basis and tons emitted for the previous 12 consecutive months.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$95

This violation Final Assessed Penalty (adjusted for limits) \$95

**Economic Benefit Worksheet****Respondent** Builders Marble Company**Case ID No.** 34560**Reg. Ent. Reference No.** RN104491055**Media** Air**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$400	10-May-2007	1-Jun-2007	0.1	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to properly maintain a recordkeeping system. Date Required is the investigation date, Final Date is the compliance date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$400

**TOTAL**

\$1

Screening Date 5-Sep-2007

Docket No. 2007-1433-AIR-E

PCW

Respondent Builders Marble Company

Policy Revision 2 (September 2002)

Case ID No. 34560

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104491055

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 74386, Special Condition No. 4, and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to physically identify and mark all equipment that has the potential to emit air contaminants on a conspicuous location with the facility identification numbers as submitted to the Industrial Emissions Assessment Section of the TCEQ and the emission point numbers as listed in the maximum allowable emission rates table.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

**Economic Benefit Worksheet****Respondent** Builders Marble Company**Case ID No.** 34560**Reg. Ent. Reference No.** RN104491055**Media** Air**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	10-May-2007	15-Aug-2007	0.3	\$3	n/a	\$3

**Notes for DELAYED costs**

Estimated cost to to physically identify and mark the emission points as required. Date Required is the investigation date, Final Date is the compliance date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$200

**TOTAL**

\$3

Screening Date 5-Sep-2007

Docket No. 2007-1433-AIR-E

PCW

Respondent Builders Marble Company

Policy Revision 2 (September 2002)

Case ID No. 34560

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104491055

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to submit an initial notification of applicability to 40 Code of Federal Regulations ("CFR") 63, Subpart WWWW by January 4, 2005.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$95

This violation Final Assessed Penalty (adjusted for limits) \$95

**Economic Benefit Worksheet**

**Respondent** Builders Marble Company  
**Case ID No.** 34560  
**Reg. Ent. Reference No.** RN104491055  
**Media** Air  
**Violation No.** 5

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	4-Jan-2005	21-Jun-2007	2.5	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to submit the required certifications/reports. Date Required is the date the first certifications/reports was due, Final Date is the compliance date.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$25



# Compliance History

Customer/Respondent/Owner-Operator: CN600452817 Builders Marble Company Classification: AVERAGE Rating: 40.00

Regulated Entity: RN104491055 BUILDERS MARBLE COMPANY Classification: AVERAGE Site Rating: 40.00

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 74386  
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER CPA001A  
 AIR NEW SOURCE PERMITS AFS NUM 4808500201  
 AIR OPERATING PERMITS PERMIT 2839

Location: 1995 US HIGHWAY 380 E, FARMERSVILLE, TX, 75442 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 05, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 05, 2002 to September 05, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 12/15/2005 ADMINORDER 2005-0520-AIR-E  
 Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to obtain authorization prior to beginning operations.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/29/2007 (565564)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BUILDERS MARBLE COMPANY  
RN104491055**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1433-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Builders Marble Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a synthetic marble products manufacturing plant at 1995 US Highway 380 East in Farmersville, Collin County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Sixty-Five Dollars (\$12,065) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Sixty-Two Dollars (\$462) of the administrative penalty and Two Thousand Four Hundred Thirteen Dollars (\$2,413) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the



Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand One Hundred Ninety Dollars (\$9,190) of the administrative penalty shall be payable in nineteen (19) monthly payments of Four Hundred Sixty-Five Dollars (\$465) each and one final payment of Three Hundred Fifty-Five Dollars (\$355). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. Began maintaining a record of monthly emissions in pounds per hour on a daily average basis and tons emitted for the previous 12 consecutive months on June 1, 2007;
  - b. Submitted the required annual compliance certification for the period of March 10, 2006 through March 9, 2007 on June 13, 2007;
  - c. Submitted an initial notification of applicability to 40 CODE OF FEDERAL REGULATIONS ("CFR") 63, Subpart WWWW on June 21, 2007;
  - d. Submitted semiannual reports for the periods of December 20, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005 on July 24, 2007; and
  - e. Physically identified and marked on a conspicuous location with the facility identification numbers as submitted to the Industrial Emissions Assessment Section of the TCEQ and the emission point numbers as listed in the maximum allowable emission rates table ("MAERT") on August 15, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.



11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to timely submit the required annual compliance certification for the period of March 10, 2006 through March 9, 2007, in violation of 30 TEX. ADMIN. CODE § 122.146(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 10, 2007.
2. Failed to submit an initial notification of applicability to 40 CFR 63, Subpart WWW by January 4, 2005, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 10, 2007.
3. Failed to submit semiannual reports for the periods of December 20, 2004 through December 31, 2004, January 1, 2005 through June 30, 2005, and July 1, 2005 through December 31, 2005, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 116.115(c), and 122.143(4), Permit No. 74386, Special Condition No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 10, 2007.
4. Failed to properly maintain a recordkeeping system, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 74386, Special Condition No. 10(c), and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on May 10, 2007. Specifically, the Respondent was not maintaining a monthly report that reflects emissions in pounds per hour on a daily average basis and tons emitted for the previous 12 consecutive months.
5. Failed to physically identify and mark all equipment that has the potential to emit air contaminants on a conspicuous location with the facility identification numbers as submitted to the Industrial Emissions Assessment Section of the TCEQ and the emission point numbers as listed in the MAERT, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 74386, Special Condition No. 4, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 10, 2007.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").





#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Builders Marble Company, Docket No. 2007-1433-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088


2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

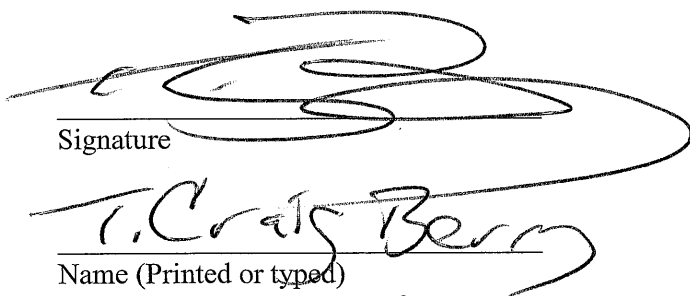
3/10/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

12/20/07  
Date

T. Craig Berry  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Builders Marble Company

Pres.  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

